

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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JOSEPH PORTO,

Plaintiffs,

- against -

**08 CIV 4778 (CLB)**

ANSWER

ANTHONY MARRACCINI, individually,  
EDWARD LUCAS, individually, RICHARD  
LIGHT, individually, PAUL CUZZAPOLI,  
individually, POLICE OFFICERS JOHN  
DOE #1 TO #10, individually, and the  
TOWN/VILLAGE OF HARRISON, New York,  
Defendants.

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Defendants ANTHONY MARRACCINI, EDWARD LUCAS, RICHARD  
LIGHT, PAUL CUZZAPOLI and THE TOWN/VILLAGE OF HARRISON, New  
York by and through their attorneys, FRIEDMAN, HARFENIST, LANGER &  
KRAUT, answering the Plaintiff's complaint, allege as follows:

1. The Defendants deny all allegations contained in paragraph "1" of the complaint and leave all questions of law to the time of trial.
2. The Defendants admit the allegations contained in paragraph "2" of the complaint.
3. The Defendants deny knowledge and information sufficient to form a belief as to the allegations contained in paragraph "3" of the complaint.
4. The Defendants admit the allegations contained in paragraph "4" of the complaint.

5. The Defendants admit the allegations contained in paragraph “5” of the complaint.

6. The Defendants admit the allegations contained in paragraph “6” of the complaint.

7. The Defendants admit the allegations contained in paragraph “7” of the complaint.

8. The Defendants deny knowledge and information sufficient to form a belief as to any allegations related to John Doe police officers and their alleged acts as described in paragraph “8” of the complaint.

9. The Defendants deny the allegations contained in paragraph “9” of the complaint except admit that Joseph Porto Jr. was arrested by members of the Town Police Department.

10. The Defendants deny all allegations contained in paragraph “10” of the complaint.

11. The Defendants deny all allegations contained in paragraph “11” of the complaint.

12. The Defendants deny all allegations contained in paragraph “12” of the complaint.

13. The Defendants deny all allegations contained in paragraph “13” of the complaint.

14. The Defendants deny knowledge or information sufficient to form a belief as to the allegations contained in paragraph “14” of the complaint.

15. The Defendants deny the allegations contained in paragraph “15” of the complaint.

16. The Defendants deny all allegations contained in paragraph “16” of the complaint and leave all questions of law to the court.

**AS AND FOR AN ANSWER TO THE FIRST CAUSE OF ACTION**

17. As and for an answer to paragraph “17” of the complaint, the Defendants repeat and reallege all allegations in paragraphs 1 through 16 of this answer as if more fully set forth hereat.

18. The Defendants deny all allegations contained in paragraph “18” of the complaint and leave all questions of law to the court.

**AS AND FOR AN ANSWER TO THE SECOND CAUSE OF ACTION**

19. As and for an answer to paragraph “19” of the complaint, the Defendants repeat and reallege all allegations in paragraphs 1 through 16 of this answer as if more fully set forth hereat.

20. The Defendants deny all allegations contained in paragraph “20” of the complaint and leave all questions of law to the court.

**AS AND FOR AN ANSWER TO THE THIRD CAUSE OF ACTION**

21. As and for an answer to paragraph “21” of the complaint, the Defendants repeat and reallege all allegations in paragraphs 1 through 16 of this answer as if more fully set forth hereat.

22. The Defendants deny all allegations contained in paragraph “20” of the complaint and leave all questions of law to the court.

**AS AND FOR AN ANSWER TO THE FOURTH CAUSE OF ACTION**

23. As and for an answer to paragraph “23” of the complaint, the Defendants repeat and reallege all allegations in paragraphs 1 through 16 of this answer as if more fully set forth hereat.

24. The Defendants deny all allegations contained in paragraph “24” of the complaint and leave all questions of law to the court.

**AS AND FOR DEFENDANTS’  
FIRST AFFIRMATIVE DEFENSE**

25. The Complaint fails to state a cause of action against the answering defendants.

**AS AND FOR DEFENDANTS'  
SECOND AFFIRMATIVE DEFENSE**

26. The actions taken by the Defendants were made in good faith, without malice and in conformity with any and all applicable laws.

**AS AND FOR DEFENDANTS'  
THIRD AFFIRMATIVE DEFENSE**

27. The actions complained of were in full accord with applicable State and Federal law.

**AS AND FOR DEFENDANTS'  
FOURTH AFFIRMATIVE DEFENSE**

28. Plaintiff's constitutional and statutory rights have not been violated by the named defendants herein.

**AS AND FOR DEFENDANTS'  
FIFTH AFFIRMATIVE DEFENSE**

29. That any purported detention was reasonable or justified under *Terry v. Ohio* and additional New York and Federal decisional law.

**AS AND FOR DEFENDANTS'  
SIXTH AFFIRMATIVE DEFENSE**

30. The Defendants' actions are protected by the doctrine of qualified immunity.

**AS AND FOR DEFENDANTS'  
SEVENTH AFFIRMATIVE DEFENSE**

31. The Plaintiff fails to state a cause of action under *Monell v. New York City Dep't of Social Services* as the complaint fails to identify any policy, practice or procedure that gave rise to the Plaintiff's purported injury.

**WHEREFORE**, the Defendants demands judgment dismissing plaintiffs' complaint in its entirety along with the costs and disbursements of this action.

Dated:Purchase, New York  
June 19, 2008

FRIEDMAN, HARFENIST, LANGER & KRAUT  
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(914) 701-0800

By:\_\_\_\_\_S\_\_\_\_\_  
Neil Torczyner